



DEPARTMENT OF THE INTERIOR

Office of Natural Resources Revenue

30 CFR Part 1241

[Docket No. ONRR–2022–0003; DS63644000 DR2000000.CH7000

234D1113RT]

RIN 1012-AA35

2023 Civil Monetary Penalty Inflation Adjustments

AGENCY: Office of Natural Resources Revenue (“ONRR”), Interior.

ACTION: Final rule.

SUMMARY: Pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 (codified at 28 U.S.C. 2461 note), as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (referred to herein as the “Inflation Adjustment Acts”), and Office of Management and Budget (“OMB”) guidance, ONRR is adjusting for inflation the civil monetary penalty (“CMP”) amounts it assesses under the Federal Oil and Gas Royalty Management Act of 1982 (“FOGRMA”).

DATES: This rule is effective on January 13, 2023.

FOR FURTHER INFORMATION CONTACT: For questions on procedural issues, contact Luis Aguilar, Regulatory Specialist, by telephone at (303) 231-3418 or by email to Luis.Aguilar@onrr.gov. For questions on technical issues, contact Michael Marchetti, Enforcement Program Manager, by telephone at (303) 231-3125 or by email to Michael.Marchetti@onrr.gov.

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I. Background

FOGRMA, at 30 U.S.C. 1719(a)-(d), authorizes the Secretary of the Interior (“Secretary”) to assess CMPs for royalty reporting and other violations. Pursuant to authority delegated to it by the Secretary, ONRR published regulations at 30 CFR part 1241 implementing the Secretary’s CMP authority. The Inflation Adjustment Acts (Pub. L. 114-74) require Federal agencies to publish annual CMP inflation adjustments in the **Federal Register** by January 15th of each year.

The Inflation Adjustment Acts and OMB Memorandum No. M-23-05, December 15, 2022 (“OMB Memorandum”) specify that the annual inflation adjustments are based on the percent change between the Consumer Price Index for all Urban Consumers (“CPI-U”) published by the Department of Labor for the month of October in the year of the previous adjustment, and the October CPI-U for the preceding year. The OMB Memorandum further specifies that the cost-of-living adjustment multiplier for 2023, not seasonally adjusted, is 1.07745 for CY 2023 (the October 2022 CPI-U (298.012) divided by the October 2021 CPI-U (276.589) = 1.07745). ONRR used this guidance to calculate required inflation adjustments. Pursuant to the Inflation Adjustment Acts, any increases in CMPs are rounded to the nearest whole dollar and the new maximum penalty rates apply to CMPs assessed after the date the increase takes effect.

II. ONRR’s Inflation-Adjusted Maximum Rates

This final rule increases the maximum CMP dollar amounts for each of the four violation categories identified in 30 U.S.C. 1719(a)-(d) and implemented by 30 CFR part 1241. The following table identifies the applicable ONRR regulations, the dollar amounts set forth in the regulations, and the adjusted amounts.

30 CFR Citation	Current Maximum Penalty	2023 Inflation Adjustment Multiplier	2023 Adjusted Maximum Penalty
1241.52(a)(2).....	\$1,368	1.07745	\$1,474
1241.52(b).....	\$13,693	1.07745	\$14,754
1241.60(b)(1).....	\$27,384	1.07745	\$29,505
1241.60(b)(2).....	\$68,462	1.07745	\$73,764

III. Procedural Matters

A. Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order (“E.O.”) 12866 provides that the Office of Information and Regulatory Affairs (“OIRA”) in the OMB will review all significant rules. OIRA has determined that agency regulations intended only to implement the annual inflation adjustments are not significant, provided they are consistent with the OMB Memorandum. Because ONRR is only implementing the annual inflation adjustments in this final rule, this rule is not significant under E.O. 12866.

E.O. 13563 reaffirms the principles of E.O. 12866, while calling for improvements in the United States’ regulatory system to promote predictability, to reduce uncertainty, and to use the most innovative and least burdensome tools for achieving regulatory ends. E.O. 13563 directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. ONRR developed this rule in a manner consistent with these requirements.

B. Regulatory Flexibility Act

This rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (“RFA”), 5 U.S.C. 601, *et seq.*, because the rule only makes an adjustment for inflation. The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 requires agencies to adjust civil penalties with an annual inflation adjustment. Therefore, the RFA does not apply to this rulemaking.

C. Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

- (a) Does not have an annual effect on the economy of \$100 million or more;
- (b) Will not cause a major increase in costs or prices for consumers; individual industries; Federal, State, local government agencies; or geographic regions; and
- (c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States–based enterprises to compete with foreign–based enterprises.

D. Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or Tribal governments or the private sector of more than \$100 million per year. This rule does not have a significant or unique effect on State, local, or Tribal governments or the private sector. Therefore, ONRR is not required to provide a statement containing the information that the Unfunded Mandates Reform Act (2 U.S.C. 1531, *et seq.*) requires because this rule is not an unfunded mandate.

E. Takings (E.O. 12630)

This rule does not result in a taking of private property or otherwise have takings implications under E.O. 12630. Therefore, this rule does not require a takings implication assessment.

F. Federalism (E.O. 13132)

Under the criteria in section 1 of E.O. 13132, this rule does not have sufficient Federalism implications to warrant the preparation of a Federalism summary impact statement.

G. Civil Justice Reform (E.O. 12988)

This rule complies with the requirements of E.O. 12988. Specifically, this rule:

(a) Meets the criteria of section 3(a), which requires that ONRR review all regulations to eliminate errors and ambiguity and to write them to minimize litigation; and

(b) Meets the criteria of section 3(b)(2), which requires that ONRR write all regulations in clear language, using clear legal standards.

H. Consultation with Indian Tribal Governments (E.O. 13175)

The Department of the Interior (“DOI”) strives to strengthen its government-to-government relationship with Indian Tribes through a commitment to consultation with Indian Tribes and recognition of their right to self-governance and Tribal sovereignty. Under the DOI’s consultation policy and the criteria in E.O. 13175, ONRR evaluated this rule and determined that it will have no substantial, direct effects on Federally recognized Indian Tribes and does not require consultation.

I. Paperwork Reduction Act

This rule:

(a) Does not contain any new information collection requirements; and

(b) Does not require a submission to OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*). See 5 CFR 1320.4(a)(2).

J. National Environmental Policy Act of 1969 (“NEPA”)

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. ONRR is not required to provide a detailed statement under NEPA because this rule qualifies for categorical exclusion under 43 CFR 46.210(i) in that this rule is “. . . of an administrative, financial, legal, technical, or procedural nature” ONRR also has determined that this rule is not involved in any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis under NEPA.

K. Effects on the Energy Supply (E.O. 13211)

This rule is not a significant energy action under the definition in E.O. 13211 and, therefore, does not require a Statement of Energy Effects.

L. Clarity of this Regulation

ONRR is required by E.O. 12866 (section 1(b)(12)), E.O. 12988 (section 3(b)(1)(B)), and E.O. 13563 (section 1(a)), and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule ONRR publishes must:

- (a) Be logically organized;
- (b) Use the active voice to address readers directly;
- (c) Use common, everyday words and clear language rather than jargon;
- (d) Be divided into short sections and sentences; and
- (e) Use lists and tables wherever possible;

If you feel that ONRR has not met these requirements, send your comments to ONRR_RegulationsMailbox@onrr.gov. Your comments should be as specific as possible. For example, you should identify the number of the sections or paragraphs that you find unclear, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

M. Administrative Procedure Act

The Act requires agencies to publish annual inflation adjustments by January 15 of each year, notwithstanding section 553 of the Administrative Procedure Act. OMB has

interpreted this direction to mean that the usual APA public procedure for rulemaking—which includes public notice of a proposed rule, an opportunity for public comment, and a delay in the effective date of a final rule—is not required when agencies issue regulations to implement the annual adjustments to civil penalties that the 2015 Act requires. *See* OMB Memorandum, M-23-05, at pages 3-4. Accordingly, ONRR is issuing the 2023 annual adjustments as a final rule without prior notice or an opportunity for comment and with an effective date immediately upon publication in the **Federal Register**.

List of Subjects in 30 CFR Part 1241

Administrative practice and procedure, Coal, Geothermal energy, Indian-lands, Mineral royalties, Natural gas, Oil and gas exploration, Penalties, Public lands-mineral resources.

Howard M. Cantor
Acting Director for the Office of Natural Resources Revenue

Authority and Issuance

For the reasons discussed in the preamble, ONRR amends 30 CFR part 1241 as set forth below:

PART 1241—PENALTIES

1. The authority citation for part 1241 continues to read as follows:

AUTHORITY: 25 U.S.C. 396 *et seq.*, 396a *et seq.*, 2101 *et seq.*; 30 U.S.C. 181 *et seq.*, 351 *et seq.*, 1001 *et seq.*, 1701 *et seq.*; 43 U.S.C. 1301 *et seq.*, 1331 *et seq.*, 1801 *et seq.*

§ 1241.52 [Amended]

2. Amend § 1241.52 by:
 - a. In paragraph (a)(2), removing “\$1,368” and adding in its place “\$1,474”.

b. In paragraph (b) introductory text, removing “\$13,693” and adding in its place “\$14,754”.

§ 1241.60 [Amended]

3. Amend § 1241.60 by:

a. In paragraph (b)(1) introductory text, removing “\$27,384” and adding in its place “\$29,505”.

b. In paragraph (b)(2), removing “\$68,462” and adding in its place “\$73,764”.

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